

1 COOLEY LLP
2 WHITTY SOMVICHIAN (194463)
(wsomvichian@cooley.com)
3 MAX A. BERNSTEIN (305722)
(mbernstein@cooley.com)
4 ANUPAM DHILLON (324746)
(adhillon@cooley.com)
5 CAROLINE A. LEBEL (340067)
(clebel@cooley.com)
6 3 Embarcadero Center, 20th floor
San Francisco, CA 94111-4004
7 Telephone: +1 415 693 2000
Facsimile: +1 415 693 2222

8 | Attorneys for Defendant
GOOGLE LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

14 JOSEPH TAYLOR, EDWARD MLAKAR,
15 MICK CLEARY, EUGENE ALVIS, and
JENNIFER NELSON, individually and on
behalf of all others similarly situated,

Plaintiffs,

V.

GOOGLE LLC,

Defendant.

Case No. 5:20-cv-07956-VKD

**DECLARATION OF MAX A. BERNSTEIN IN
SUPPORT OF DEFENDANT GOOGLE'S
LLC'S MOTION TO EXCLUDE EXPERT
OPINIONS RE DAMAGES AND MOTION TO
EXCLUDE UNRELIABLE TECHNICAL
ANALYSIS**

Date: July 1, 2025

Time: 10:00 a.m.

Judge: Hon. Virginia K. DeMarchi

1 I, Max A. Bernstein, declare as follows:

2 1. I am an attorney at the law firm of Cooley LLP and an attorney of record for Google
 3 LLC (“Google”) in the matter *Taylor et al. v. Google LLC*, Case No. 5:20-cv-07956. I am licensed
 4 to practice law in the state of California and am admitted to practice before this Court. I submit this
 5 declaration in support of (1) Google’s Motion to Exclude Expert Opinions re Damages and (2)
 6 Google’s Motion to Exclude Unreliable Technical Analyses. I have personal knowledge of the facts
 7 herein.

8 2. Attached hereto as **Exhibit 1** is a true and correct copy of the November 12, 2024
 9 expert report of Plaintiffs’ expert Christopher Thompson.

10 3. Attached hereto as **Exhibit 2** is a true and correct copy of the January 9, 2023 expert
 11 report of Plaintiffs’ expert Dr. Douglas Schmidt.

12 4. Dr. Douglas Schmidt serves as the Director of Operational Test & Evaluation at the
 13 Department of Defense, as of April 8, 2024. *See* The Honorable Dr. Douglas C. Schmidt, Director,
 14 Operational Test & Evaluation,
 15 https://www.dote.osd.mil/About/Leadership1/Bio_Display/Article/3733808/the-honorable-dr-douglas-c-schmidt/ (last visited Mar. 11, 2025).

16 5. Attached hereto as **Exhibit 3** is a true and correct copy of the November 12, 2024
 17 expert report of Plaintiffs’ expert Dr. Jeffery Stec.

18 6. Attached hereto as **Exhibit 4** is a true and correct copy of the Plaintiffs’ response to
 19 Google’s Objections to Plaintiffs’ Expert Reports, filed on June 29, 2023 in the *Csupo v. Google*
 20 matter (“*Csupo*”).

21 7. Attached hereto as **Exhibit 5** is a true and correct copy of the *Csupo* Court’s Order
 22 Concerning the Parties’ Exclusion Motions and Plaintiffs’ Motion for Class Certification, filed on
 23 October 26, 2023.

24 8. Attached hereto as **Exhibit 6** is a true and correct copy of the resume of Christopher
 25 Thompson (Appendix A to the November 12, 2024 expert report of Plaintiffs’ expert Christopher
 26 Thompson).

27 9. Attached hereto as **Exhibit 7** is a true and correct copy of the January 15, 2025

1 “Supplemental Analysis of Network Usage Data” report of Google’s expert Dr. Kevin Jeffay.

2 10. Attached hereto as **Exhibit 8** is a true and correct copy of the October 21, 2024
 3 “Supplemental Expert Report” of Plaintiffs’ expert Dr. Jeffery Stec.

4 11. Attached hereto as **Exhibit 9** is a true and correct copy of excerpts from the
 5 December 12, 2024 deposition of Plaintiffs’ expert Christopher Thompson.

6 12. Attached hereto as **Exhibit 10** is a true and correct copy of excerpts from the January
 7 6, 2025 deposition of Plaintiffs’ expert Christopher Thompson.

8 13. Attached hereto as **Exhibit 11** is a true and correct copy of the January 15, 2025
 9 expert report of Google’s expert Dr. Kevin Jeffay, as updated on March 10, 2025.

10 14. Attached hereto as **Exhibit 12** is a true and correct copy of an email dated December
 11 24, 2024 from Plaintiffs’ counsel Karma Julianelli to Google’s counsel Whitty Somvichian.

12 15. Attached hereto as **Exhibit 13** is a true and correct copy of the January 15, 2025
 13 “Supplemental Analysis of Network Usage Data” report of Google’s expert Dr. Kevin Jeffay, as
 14 updated on March 10, 2025. Note that this is a revised and updated version of Exhibit 7.

15 16. Attached hereto as **Exhibit 14** is a true and correct copy of a Google internal
 16 document, produced by Google beginning at GOOG-CSUPO-00023499.

17 17. Attached hereto as **Exhibit 15** is a true and correct copy of excerpts from the
 18 December 10, 2024 deposition of Plaintiffs’ expert Dr. Jeffrey Stec.

19 18. Attached hereto as **Exhibit 16** is a true and correct copy of the “Updated Scripts and
 20 Data” provided by Plaintiffs in connection with the opinions of Plaintiffs’ expert Christopher
 21 Thompson, dated December 22, 2024.

22 19. Attached hereto as **Exhibit 17** is a true and correct copy of the February 4, 2025
 23 Declaration of Borbala Benko, a Google employee, submitted in connection with Google’s
 24 opposition to Plaintiffs’ second class certification motion in *Csupo*.

25 20. Attached hereto as **Exhibit 18** is a true and correct copy of the January 15, 2025
 26 expert report of Google’s expert Dr. Sandeep Chatterjee.

27 21. Attached hereto as **Exhibit 19** is a true and correct copy of an email dated January
 28 10, 2025 from Plaintiffs’ counsel Jacob Marsh to Google’s counsel Max Bernstein and Whitty

1 Somvichian.

2 22. Attached hereto as **Exhibit 20** is a true and correct copy of the November 12, 2024
 3 expert report of Plaintiffs' expert Dr. Christopher Jules White.

4 23. Attached hereto as **Exhibit 21** is a true and correct copy of excerpts from the
 5 December 11, 2024 deposition of Google employee Noha Elarief.

6 24. Attached hereto as **Exhibit 22** is a true and correct copy of the January 9, 2023
 7 expert report of Plaintiffs' expert Dr. Roger Entner.

8 25. Attached hereto as **Exhibit 23** is a true and correct copy of the October 15, 2024
 9 expert report of Dr. Roger Entner.

10 26. Attached hereto as **Exhibit 24** is a true and correct copy of the November 6, 2024
 11 expert report of Plaintiffs' expert Dr. Roger Entner.

12 27. Attached hereto as **Exhibit 25** is a true and correct copy of excerpts from the
 13 February 3, 2023 deposition of Plaintiffs' expert Dr. Roger Entner.

14 28. Attached hereto as **Exhibit 26** is a true and correct copy of the February 25, 2025
 15 Declaration of Meaghan Eichmann, a Google employee, submitted in connection with Google's
 16 motion to exclude expert opinions re damages in *Csupo*.

17 29. Attached hereto as **Exhibit 27** is a true and correct copy of excerpts from the
 18 October 31, 2024 deposition of Plaintiffs' expert Dr. Roger Entner.

19 30. Attached hereto as **Exhibit 28** is a true and correct copy of the January 15, 2025
 20 expert report of Google's expert Dr. Anindya Ghose.

21 31. Attached hereto as **Exhibit 29** is a true and correct copy of the Wireless Industry
 22 Indices Report, Year End 2021 Results, published by the Cellular Telecommunications Industry
 23 Association.

24 32. Attached hereto as **Exhibit 30** is a true and correct copy of excerpts of the November
 25 8, 2024 deposition of Dr. Jules White.

26 ///

27

28

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 11, 2025 in San Francisco, California.

/s/ Max A. Bernstein
Max A. Bernstein

315770892